

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

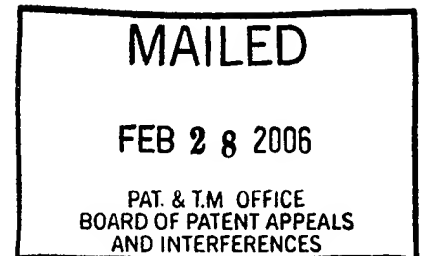
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN C. YUNDT-PACHECO

Appeal No. 2006-0558
Application 09/800,113

ON BRIEF



Before THOMAS, LEVY, and BLANKENSHIP, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner having twice rejected claims 1 through 8 on appeal.

Representative independent claim 1 is reproduced below:

1. In a computer system having a laboratory information system application program, an operating system and a printer driver, a method for formatting data from a group of laboratory instruments, the method comprising:

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obtaining data indicative of outputs of the group of laboratory instruments by the laboratory information system application program;

transferring the data from the laboratory information system application program, to an operating system for printing;

transferring the data, by the operating system, to the printer driver;

formatting the data, by the printer driver, into a format required by an external monitoring facility; and

storing the formatted data in a file for extraction by the external monitoring facility.

The following references are relied on by the examiner:

French	5,437,024	Jul. 25, 1995
Suzuki et al (Suzuki)	6,665,081	Dec. 16, 2003
		(Filed Oct. 7, 1998)

All claims on appeal, claims 1 through 8, stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon French in view of Suzuki.

Rather than repeat the positions of the appellant and the examiner, reference is made to the brief and reply brief for appellant's positions, and to the answer for the examiner's positions.

OPINION

For the reasons set forth by the examiner in the answer, as amplified here, we sustain the rejection of all claims on appeal under 35 U.S.C. § 103. Inasmuch as appellant's principal brief on appeal considers independent claims 1, 2, 3 and 4 together, we consider claim 1 as representative. No arguments are presented as to respective dependent claims 5, 6, 7, and 8.

The issue between the appellant and the examiner focuses upon the feature at the end of each claim on appeal of storing the formatted data in a file "for extraction by the external monitoring facility." According to the examiner's reasoning, the basis of the rejection of independent claims 1 through 4 in the statement of the Rejection portion at pages 3 through 6 of the answer, appellant has not challenged the examiner's correlation that French teaches that a print driver formats data in method claim 1 and system claim 3, and likewise does not argue before us that French does not teach the formatting feature by the port monitor of claims 2 and 4.

The basic theme of appellant's brief and reply brief as well is the assertion that neither French nor Suzuki nor the hypothetical combination of them within 35 U.S.C. § 103 teaches the feature of storing formatted data for extraction by an external monitoring facility. With this position we strongly disagree.

The various figures of French illustrate the use of a "save temp file", the use of a "queue temp file", or the showing of a "queue file". Thus, French plainly teaches the storing of formatted information to the extent claimed. Correspondingly, we do not agree with appellant's views at page 2 of the reply brief, that French's teaching of a queue file leads to the conclusion that it is only a temporary, volatile holding area for data. While this discussion of a queue file is generally the common view in the art as to what a queue file comprises with respect to the functions it performs, the fact that the queue file does store data even for a temporary period of time inescapably leads to the conclusion that an output device may extract the information therefrom at a later point in time even if the extraction is only moments later, to the extent argued otherwise in the brief and reply brief.

As variously argued in the brief and reply brief, appellant appears to urge us to read into the feature of the language of each independent claim "for extraction by an external monitoring facility" as requiring a request from such a monitoring facility for a read operation from a stored file, that the information is stored "until the external monitoring facility requests the data" as argued at the top of page 6 of the principal brief on appeal or as otherwise stored until the external monitoring facility actively extracts the data from the system. On the other hand, what is actually claimed is the preposition "for" which includes a present tense extraction capability as well as a future act yet to occur. Because it is clear from French that the various queues or buffers provide temporary stores or temporary files storing data, a printer device that subsequently or even contemporaneously or substantially simultaneously receives data from these temporary files may be fairly characterized in the art as extracting data from them. Appellant attempts to predicate patentability on the word "extraction".

Notwithstanding these considerations, there are at least two aspects of the teachings of French that permits this more narrow view anyway. Figure 5 of French is characterized as depicting the three principal software modules that carry out the steps of the general method of operation of French's embodiment. A report distribution module 180 in figure 5 is shown in detail in figure 13 which in context permits data that has already been stored in a fax queue or a print queue or a general queue to be printed out later in time, even overnight. Additionally, the figure 5 showing includes the module 140 labeled the report reader module which is detailed in figure 8. The bottom portion of this latter figure is depicted in Figure 12 which indicates that for a given database already prestoring a queued report, a new physician may be subsequently added such that data may be either faxed or printed later in time to his own office once the correct fields within the database have been established and a new doctor has been matched to its availability.

The second compelling teaching within French that allows for the later in time extraction by an external monitoring facility of prior formatted data stored in a file of information is the showing in figure 11. The augment report capability within

element 145 of figure 8 is detailed in figure 11 where the last step of this figure is element 174 to send compressed copies to the archives. This functionality is initially stated at the bottom of column 12, line 51 through 63, as reproduced here:

The output ports 18 of the present invention constitute a data processing interface such as is well known to those skilled in the art with a connection to miscellaneous well known report distribution devices 70 such as, in the preferred embodiment, a fax machine 72, modem/direct connection 74, printer 76, or other output devices 78. Distribution of the reports through other devices 78 also may include distribution of the reports to an optical disk storage system or other data storage device, for archival purposes. As directed by the controller 14, reports are output for distribution through the output ports 18 to the report distribution devices 70.

This archival feature is detailed as to step 174 in figure 11 at column 25, lines 4 through 10 which we reproduce here:

In step 174, the compressed augmented report is sent to archives for later use or retrieval, as desired by the recipient or the source. In particular, it will be understood that one or more of the output ports 18 may be connected to a data storage device such as an optical disk drive, tape drive, or the like, for archival storage purposes (emphasis added).

Contrary to views taken by appellant in the brief and reply brief that the examiner admits that French does not teach the claimed for extraction capability, the examiner merely states at the top of page 4 that French is silent with respect to specific

printer circuitry and software necessary for carrying out his invention, the examiner then turning to Suzuki for the details thereof. Even though we agree with appellant's reply brief characterization that the examiner has weakly argued Suzuki, French does explicitly teach more than the examiner and appellant has apparently realized, and Suzuki may be fairly characterized as examiner has generally done.

Corresponding to the teachings of temporary stores or archival stores in French, Suzuki shows in various figures as well as discusses the use of print spoolers. This is a well known temporary storage concept within the computer arts, typically including magnetic disk and drum to temporarily store data for output to high speed printers. As to the concept of temporarily storing formatted data, note that shared memory store 29 in figure 2 of Suzuki, the use of a spooler 35 in this figure and the use of temporary storage registers and spooling functions in the functional description flow charts of figures 18 and 19, which depict the functionality of printer drivers. Additionally, intermediate storage capabilities are illustrated in figures 5, 8, and 9 of Suzuki as well. The printer driver 105 in figure 15 utilizes a printer spool 157 which temporary stores data for transmission to a printer when the operating system permits this

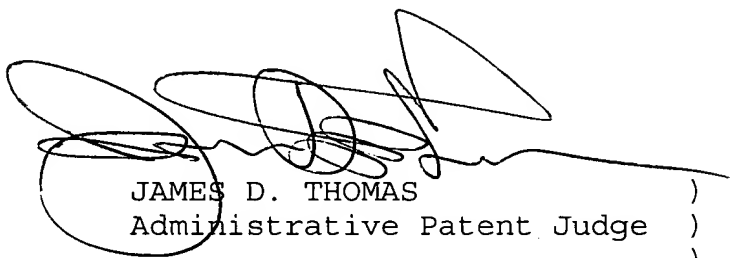
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or otherwise recognizes a request from a printer of its availability. Appellant's own comments at the bottom of page 9 of the principal brief on appeal appear to indicate that he recognizes that the printer driver in Suzuki formats data for printer output. We also do not agree with appellant's view expressed at page 10 of the principal brief that Suzuki does not disclose a formatted file being stored for extraction by an external facility. Once stored or otherwise buffered, the data in Suzuki in a formatted form may clearly be contemporaneously or subsequently printed out by the separately identifiable printer mechanism taught in this reference.


In view of the foregoing, the decision of the examiner rejecting claims 1 through 8 on appeal under 35 U.S.C. § 103 is affirmed.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a)(1)(iv).



JAMES D. THOMAS
Administrative Patent Judge



STUART S. LEVY
Administrative Patent Judge



HOWARD B. BLANKENSHIP
Administrative Patent Judge

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